

The Gazette of India

EXTRAORDINARY PART II—Section 3 PUBLISHED BY AUTHORITY

No. 383] NEW DELHI, SATURDAY, JULY 27, 1957/SRAVANA 5, 1879

MINISTRY OF LABOUR & EMPLOYMENT

NOTIFICATION

New Delhi, the 27th July 1957

S.R.O. 2463.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme for the Port of Madras, the same having been previously published as required by the said sub-section, namely:—

THE MADRAS UNREGISTERED DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1957

1. Short title, application and commencement.—(1) This Scheme may be called the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957.

(2) It applies to the dock workers of the classes specified in the Schedule and to the employers of such dock workers in the Port of Madras but does not apply to workers—

- (a) engaged in any class or description of work carried out in workshops or by Ship's crew; or
- (b) being Monthly employees of listed employers.

(3) It shall come into force at once.

2. Object.—The object of the Scheme is to regulate the employment of dock workers to whom this Scheme applies.

3. Definitions.—In this Scheme, unless there is anything repugnant in the subject or context—

- (a) "Act" means the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);
- (b) "Board" means the Madras Dock Labour Board constituted under clause 4 of the Madras Dock Workers (Regulation of Employment) Scheme, 1956;

- (c) "Chairman", "Executive Officer" and the "Personnel Officer" mean the Officer appointed as such under the Madras Dock Workers (Regulation of Employment) Scheme, 1956;
- (d) "Committee" means a committee appointed under clause 7;
- (e) 'daily worker' means a dock worker who is not a monthly worker;
- (f) "dock work" means work ordinarily performed by dock workers of the classes to which this Scheme applies;
- (g) "dock employer" means the person and/or firm by whom a dock worker to whom the scheme applies is employed or is to be employed;
- (h) 'listed employer' means a dock employer listed by the Board under clause 8 and includes, for the purpose of clause 11, an authorised agent of such employer;
- (i) 'listed worker' means a dock worker listed under clause 9;
- (j) 'monthly worker' means a dock worker, who is employed by a listed employer on monthly basis under a contract which requires for its termination at least one month's notice on either side; and
- (k) 'vessel' means an ocean going vessel or ship whose gross registered tonnage is not less than 350 tons.

4. Functions of the Board.—The Board may with a view to regulating the employment of dock workers to whom this scheme applies take such measures as it may consider desirable including measures for—

- (a) appointing, abolishing or reconstituting committees under clause 7;
- (b) determining and keeping under review the number of listed employers and listed dock workers from time to time on the lists and the increase or reduction to be made in the number in any such list;
- (c) keeping and maintaining a list of dock employers, entering or re-entering therein the name of any dock employer and where circumstances so require, removing from the list, the name of any dock employer, either at his own request or in accordance with the provisions of this Scheme;
- (d) keeping and maintaining from time to time a list of dock workers and removing from the list the name of a dock worker either at his own request or in accordance with the provisions of this Scheme;
- (e) issuing photo-identity cards for listed dock workers;
- (f) recovering from listed employers, such administrative charges as it may determine;
- (g) making recommendations to the Central Government about such changes in this Scheme as the Board may consider desirable from time to time.

5. Functions of the Chairman.—(1) The Chairman shall have full administrative and executive powers to deal with all matters relating to the day-to-day administration of this Scheme and in particular—

- (a) to ensure, with the assistance, wherever necessary, of such Committee or Committees as may be appointed under clause 7, that the decisions of the Board in regard to the entry of names in, or the removal of names from, the list of dock employers or the list of dock workers are carried out expeditiously;

- (b) to supervise and control the working of the Personnel and other Officers as prescribed in this scheme;
 - (c) to take disciplinary action against listed employers as prescribed in this Scheme;
 - (d) to discharge all other duties and responsibilities specifically vested in the Chairman under this Scheme.
- (2) The Chairman may delegate in writing—
- (a) to the Executive Officer, any of his functions under sub-clause (1), and
 - (b) to the Personnel Officer, any of his functions under sub-clause (1) (a), (1)(c) and (1)(d).

6. **Functions of the Executive Officer and the Personnel Officer.**—Without prejudice to the powers and functions of the Board and the Chairman, the Executive Officer and the Personnel Officer shall carry out such functions as may be assigned to them by the Chairman under clause 5 or as are provided under this Scheme.

7. **Committees.**—The Board may appoint one or more Committees, composed of such representatives of dock employers and dock workers to whom this Scheme applies, and such other person or persons as may be nominated by the Board to facilitate compliance with or implementation of the provisions of this Scheme and may entrust to such committee or committees such of its functions as it may deem fit. The Board may dissolve or reconstitute such Committee or Committees from time to time as it may deem fit.

8. **Listing of employers of dock workers.**—(1) The Board shall maintain a list of employers of dock workers to whom this Scheme applies.

(2) Every person, who, on the date of commencement of this Scheme, is an employer of dock workers to whom this Scheme applies, and who applies to the Board in this behalf on or before such date as may be fixed by the Board for this purpose, shall be entitled to be listed under this Scheme:

Provided that no employer shall be listed who has not been licensed by the Madras Port Trust Board under its bye-laws.

(3) The Board may, if it considers expedient and necessary to do so, list employers other than those covered by sub-clause (2).

(4) Each dock employer who has been listed shall pay to the Board a listing fee of Rs. 100.

(5) Where the Board refuses to list an employer, it shall communicate to the person concerned a copy of the order together with the reasons therefor.

9. **Listing of dock workers.**—(1) Any dock worker, who has been in the employment of an employer to whom this Scheme applies and has worked under him for such number of days or shifts during such period as may be prescribed by the Board, shall, subject to the following conditions, be eligible for being listed, namely—

- (i) The number of workers of each class to be selected for listing shall not exceed the number which the Board may determine from time to time. Selection for listing shall be made, as far as possible, on the basis of seniority as determined by the length of service rendered by a worker or on such other basis as the Board may determine; provided that such worker shall be medically fit and shall not be more than 60 years of age.

- (ii) Only Indian citizens shall be eligible for being listed:

Provided that dock workers who are not Indian citizens but are otherwise eligible may be listed provisionally in a separate list on such terms and conditions as the Board may, in consultation with the Central Government, prescribe from time to time.

- (2) Workers shall be listed in accordance with the following procedure, namely—

- (i) Each eligible dock worker shall apply to the Board through his employer on or before such date as may be fixed by the Board or any Committee appointed under clause 7 for the purpose. The application shall be submitted in duplicate in the form prescribed by the Board, and shall be accompanied by three copies of passport sized photograph of the worker concerned, the cost of which shall be borne by him.

- (ii) A listed employer shall not refuse to forward the application of a worker who has been in his employment and has worked under him for such number of days or shifts during such period as may be prescribed by the Board under sub-clause (1):—

Provided that if any question arises whether or not a worker has been in the employment of his employer and has worked under him for such number of days or shifts as may be prescribed by the Board, it shall be referred to such officer, authority or committee as the Board may specify and the decision of such officer, authority or committee as the case may be, shall be final.

- (iii) The period for which a worker of a class specified in the Schedule has served on work relatable to that class under a particular employer shall as far as possible be recorded on the basis of payments of wages made to the worker previously, either directly by the employer or through any of the employer's agents.

- (iv) While forwarding an application of a dock worker, the employer shall if he does not recommend the application state the reasons for which he does not recommend the application.

- (v) Every worker shall pay to the Board a 'listing fee' of twenty-five naye paise on his name being listed.

- (vi) If the application is in order, the Board shall enter the name of the worker in the list of workers and retain one copy each of the application and the photograph for record and return the other copy of the application with a photograph affixed on it together with a photo-identity card to the listed employer through whom the application has been received. The employer shall hand over the photo-identity card to the worker concerned.

- (3) Notwithstanding any other provision of this Scheme, where the Board is of opinion that a dock worker has secured his listing by furnishing false information in his application or by withholding any information required therein, or where it appears that a worker has been listed improperly or incorrectly the Board in meeting may direct the removal of his name from the list:—

Provided that before giving any such direction, the Board shall give him an opportunity of showing cause why the proposed direction should not be issued.

- (4) A copy of every order refusing to list a worker shall be communicated to him.

10. **Medical Examination.**—If a listed employer deems it necessary, a worker shall undergo at the cost of the listed employer, medical examination by a Medical Officer appointed by the Chairman. If the worker is found permanently unfit, his name shall be removed from the list.

11. **Obligations of listed employer.**—(1) Every listed employer shall be bound by the provisions of this Scheme.

(2) A listed employer shall maintain records in such form as may be prescribed by the Board, showing the names of dock workers employed by him daily, the payments made to them and such other particulars as the Board may specify.

(3) A listed employer shall prepare at the end of each month a statement showing the number of days for which each dock worker was employed by him and the payments made to each worker.

(4) A listed employer shall make direct payment of wages, allowances and the like to the dock workers employed by him.

(5) At the end of each month, a listed employer shall make a summary of the monthly statements referred to in sub-clause (3) and submit it to the Board within a fortnight of the commencement of the next month. The listed employer shall also maintain such registers and records and submit such other returns and information as the Board may require. All registers, records and returns shall be made available for inspection by the Officers of the Board whenever required.

(6) Every listed employer shall pay to the Board such administrative charges as may be fixed by the Board.

(7) A listed employer shall maintain a list of the workers sponsored by him and listed by the Board and a listed worker shall not be transferred from the list of one dock employer to that of another without prior sanction of the Chairman.

(8) A listed employer shall not engage a worker of the class mentioned in the Schedule who is not listed so long as a listed worker of the same class from his list or any other employer's list offers himself for employment.

(9) To the extent possible, a listed employer shall allot work by rotation to workers listed with him:

Provided that a monthly worker of a particular category attached to a listed employer shall be entitled to be employed by that employer in preference to a daily worker.

12. **Obligations of listed workers.**—(1) Each listed worker shall be deemed to have accepted the obligations of this Scheme.

(2) A listed worker shall not offer himself for employment with any other employer on any day on which he is offered employment by his employer.

(3) A listed worker who is available for work shall carry out the instructions of his employer and shall—

(a) report at such call or control point and remain there for such period as may be specified by the employer; and

(b) accept any employment in connection with dock work whether in the category for which he is listed or any other category for which he is considered suitable by the employer.

(4) A listed worker when booked for work shall carry out the work entrusted to him in accordance with the instructions of his employer or his authorised representative or supervisor.

13. Restriction on employment.—Subject to the provisions of clause 1, no person other than a listed employer shall employ any worker on dock work nor shall a listed employer engage for employment or employ a worker on dock work unless that worker is a listed worker.

14. Disciplinary procedure.—(1) The Personnel Officer on receipt of information, whether on complaint or otherwise, that a listed employer has failed to carry out the provisions of this Scheme may after investigating the matter—

- (i) give him a warning in writing, or
- (ii) if in his opinion, a higher penalty is merited, report the case to the Executive Officer.

(2) The Executive Officer shall then cause such further investigation to be made as he may deem fit and take any of the following steps as regards that employer, that is to say, he may—

- (a) censure the employer and record the censure in his record sheet; or
- (b) subject to the approval of the Board and after one month's notice in writing to the employer, direct that the name of the employer shall be removed from the list of employers for such period as may be determined by the Board or permanently if the Board so determines.

(3) Before any action is taken under this clause the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him. A copy of the final order shall also be communicated to the person concerned.

(4) All disciplinary powers in respect of a listed worker shall vest in the listed employer by whom that worker is employed. A copy of every order passed against a worker shall be communicated to him. The name of a listed worker who is discharged as the result of disciplinary action shall be communicated to the Board by the listed employer concerned. On receipt of such information, the Board shall remove the worker's name from the list unless the order of discharge is set aside on appeal preferred under clause 16.

15. Appeals by employers.—(1) A listed employer who is aggrieved by an order under clause 14 may appeal—

- (a) to the Executive Officer, if the order was made by the Personnel Officer, or
- (b) to the Chairman, if the order was made by the Executive Officer.

(2) A dock employer who has been refused listing under clause 8 may appeal to the Central Government.

(3) Every appeal referred to in sub-clause (1) or sub-clause (2) shall be in writing and preferred within 14 days of the date of receipt of the order appealed against, and the order passed on such appeal shall be final:

Provided that the appellate authority may, for reasons to be recorded, admit an appeal preferred after the expiry of 14 days.

16. Appeals by workers.—A listed worker who is aggrieved by an order of his employer under clause 14(4) may appeal to the Executive Officer. A second appeal shall lie to the Chairman.

(2) A dock worker, who has been refused listing under clause 9 may appeal to the Board.

(3) Every appeal under sub-clause (1) or sub-clause (2) shall be in writing and preferred within 14 days of the receipt of the order appealed against and the order passed on such appeal shall be final:

Provided that the appellate authority may for reasons to be recorded, admit an appeal preferred after the expiry of 14 days.

17. **Penalties.**—A contravention of clause 13 shall be punishable with fine not exceeding two hundred rupees in respect of a first contravention or five hundred rupees in respect of any subsequent contravention.

SCHEDULE

(See clause 1)

Classes of dock workers to whom this Scheme applies—

- (1) Chipping and Painting workers.
- (2) Shore labour employed in handling chemical manure (including rock phosphate) in bulk.
- (3) Labour employed in handling coal (including bunker coal).
- (4) Shore labour employed in handling ores.
- (5) Shore labour employed in handling scrap iron.
- (6) Shore labour employed in handling sulphur in bulk.

[No. Fac-80(97)57.]

K. N. NAMBIAR, Dy. Secy.

